

AMENDED IN SENATE JULY 8, 2015  
AMENDED IN SENATE JULY 6, 2015  
AMENDED IN ASSEMBLY MAY 28, 2015  
AMENDED IN ASSEMBLY APRIL 27, 2015  
AMENDED IN ASSEMBLY APRIL 14, 2015  
AMENDED IN ASSEMBLY MARCH 18, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 348**

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**Introduced by Assembly Member Brown  
(Coauthors: Assembly Members Gipson and Mathis)**

February 17, 2015

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An act to amend Section 1420 of the Health and Safety Code, relating to health care facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 348, as amended, Brown. Long-term health care facilities: complaints: investigations.

Existing law provides for the licensure and regulation by the State Department of Public Health of long-term health care facilities, as defined. Existing law establishes procedures to be followed when the department receives a written or oral complaint about a long-term health care facility. A complaint is defined to mean any notice to the department, other than a report from the facility, of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute a violation. Existing law establishes the time period for which an investigation of a complaint is required to be completed,

and authorizes an extension of that time period under extenuating circumstances.

This bill would require the department to apply the existing time periods for the investigation, inspection, and issuance of a citation under these provisions to a report from the facility of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute a violation of those requirements. The bill would also require the department to analyze its compliance with the time periods for investigations on a quarterly basis and post those findings on its Internet Web site. ~~The bill would make other technical changes to these provisions, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1420 of the Health and Safety Code is  
2     amended to read:  
3     1420. (a) (1) Upon receipt of a written or oral complaint,  
4     the state department shall assign an inspector to make a preliminary  
5     review of the complaint and shall notify the complainant within  
6     two working days of the receipt of the complaint of the name of  
7     the inspector. Unless the state department determines that the  
8     complaint is willfully intended to harass a licensee or is without  
9     any reasonable basis, it shall make an onsite inspection or  
10    investigation within 10 working days of the receipt of the  
11    complaint. In any case in which the complaint involves a threat of  
12    imminent danger of death or serious bodily harm, the state  
13    department shall make an onsite inspection or investigation within  
14    24 hours of the receipt of the complaint. In any event, the  
15    complainant shall be promptly informed of the state department's  
16    proposed course of action and of the opportunity to accompany  
17    the inspector on the inspection or investigation of the facility. Upon  
18    the request of either the complainant or the state department, the  
19    complainant or his or her representative, or both, may be allowed  
20    to accompany the inspector to the site of the alleged violations  
21    during his or her tour of the facility, unless the inspector determines  
22    that the privacy of any patient would be violated thereby.  
23    (2) When conducting an onsite inspection or investigation  
24    pursuant to this section, the state department shall collect and

1 evaluate all available evidence and may issue a citation based  
2 upon, but not limited to, all of the following:

3 (A) Observed conditions.

4 (B) Statements of witnesses.

5 (C) Facility records.

6 (3) (A) For a complaint that involves a threat of imminent  
7 danger of death or serious bodily harm that is received on or after  
8 July 1, 2016, the state department shall complete an investigation  
9 of the complaint within 90 days of receipt of the complaint. At the  
10 completion of the complaint investigation, the state department  
11 shall notify the complainant and licensee in writing of the state  
12 department's determination as a result of the inspection or  
13 investigation.

14 (B) The time period described in subparagraph (A) may be  
15 extended up to an additional 60 days if the investigation cannot  
16 be completed due to extenuating circumstances. The state  
17 department shall document these circumstances and notify the  
18 facility and the complainant in writing of the basis for the extension  
19 and the estimated completion date.

20 (4) (A) For a complaint that does not involve a threat of  
21 imminent danger of death or serious bodily harm pursuant to  
22 paragraph (3) and that is received on or after July 1, 2017, and  
23 prior to July 1, 2018, the state department shall complete an  
24 investigation of the complaint within 90 days of receipt of the  
25 complaint. At the completion of the complaint investigation, the  
26 state department shall notify the complainant and licensee in  
27 writing of the state department's determination as a result of the  
28 inspection or investigation.

29 (B) The time period described in subparagraph (A) may be  
30 extended up to an additional 90 days if the investigation cannot  
31 be completed due to extenuating circumstances. The state  
32 department shall document these circumstances and notify the  
33 facility and the complainant in writing of the basis for the extension  
34 and the estimated completion date.

35 (5) (A) For a complaint that is received on or after July 1, 2018,  
36 the state department shall complete an investigation of the  
37 complaint within 60 days of receipt of the complaint. At the  
38 completion of the complaint investigation, the state department  
39 shall notify the complainant and licensee in writing of the state

1 department's determination as a result of the inspection or  
2 investigation.

3 (B) The time period described in subparagraph (A) may be  
4 extended up to an additional 60 days if the investigation cannot  
5 be completed due to extenuating circumstances. The state  
6 department shall document these circumstances and notify the  
7 facility and the complainant in writing of the basis for the extension  
8 and the estimated completion date.

9 (b) Upon being notified of the state department's determination  
10 as a result of the inspection or investigation, a complainant who  
11 is dissatisfied with the state department's determination, regarding  
12 a matter which would pose a threat to the health, safety, security,  
13 welfare, or rights of a resident, shall be notified by the state  
14 department of the right to an informal conference, as set forth in  
15 this section. The complainant may, within five business days after  
16 receipt of the notice, notify the director in writing of his or her  
17 request for an informal conference. The informal conference shall  
18 be held with the designee of the director for the county in which  
19 the long-term health care facility which is the subject of the  
20 complaint is located. The long-term health care facility may  
21 participate as a party in this informal conference. The director's  
22 designee shall notify the complainant and licensee of his or her  
23 determination within 10 working days after the informal conference  
24 and shall apprise the complainant and licensee in writing of the  
25 appeal rights provided in subdivision (c).

26 (c) If the complainant is dissatisfied with the determination of  
27 the director's designee in the county in which the facility is located,  
28 the complainant may, within 15 days after receipt of this  
29 determination, notify in writing the Deputy Director of the  
30 Licensing and Certification Division of the state department, who  
31 shall assign the request to a representative of the Complainant  
32 Appeals Unit for review of the facts that led to both determinations.  
33 As a part of the Complainant Appeals Unit's independent  
34 investigation, and at the request of the complainant, the  
35 representative shall interview the complainant in the district office  
36 where the complaint was initially referred. Based upon this review,  
37 the Deputy Director of the Licensing and Certification Division  
38 of the state department shall make his or her own determination  
39 and notify the complainant and the facility within 30 days.

1 (d) Any citation issued as a result of a conference or review  
2 provided for in subdivision (b) or (c) shall be issued and served  
3 upon the facility within 30 days of the final determination. Service  
4 shall be effected either personally or by registered or certified mail.  
5 A copy of the citation shall also be sent to each complainant by  
6 registered or certified mail.

7 (e) A miniexit conference shall be held with the administrator  
8 or his or her representative upon leaving the facility at the  
9 completion of the investigation to inform him or her of the status  
10 of the investigation. The state department shall also state the items  
11 of noncompliance and compliance found as a result of a complaint  
12 and those items found to be in compliance, provided the disclosure  
13 maintains the anonymity of the complainant. In any matter in which  
14 there is a reasonable probability that the identity of the complainant  
15 will not remain anonymous, the state department shall also notify  
16 the facility that it is unlawful to discriminate or seek retaliation  
17 against a resident, employee, or complainant.

18 (f) Any citation issued as a result of the complaint investigation  
19 provided for in paragraph (3), (4), or (5) of subdivision (a), and in  
20 compliance with Section 1423, shall be issued and served upon  
21 the facility within 30 days of the completion of the complaint  
22 investigation.

23 (g) The department shall apply the time periods for investigation,  
24 inspection, and issuance of a citation established in this section to  
25 a report from the facility of an alleged violation of applicable  
26 requirements of state or federal law or any alleged facts that might  
27 constitute a violation of those requirements.

28 (h) The department shall analyze its compliance with the time  
29 periods for investigations established in this section on a quarterly  
30 basis, and shall, on a quarterly basis, post findings from the analysis  
31 on its Internet Web site. The analysis shall provide data on the  
32 department's performance, and shall include, at a minimum, all  
33 of the following data elements:

- 34 (1) The number of open investigations.  
35 (2) The number of completed investigations.  
36 (3) The number and percentage of investigations completed  
37 within the initial time period established in paragraph (3), (4), or  
38 (5) of subdivision (a).

1 (4) The number and percentage of investigations that required  
2 an extension authorized in paragraph (3), (4), or (5) of subdivision  
3 (a).

4 (5) The number and percentage of investigations that required  
5 an extension and were completed within the extended time period  
6 authorized in paragraph (3), (4), or (5) of subdivision (a).

7 (6) The average length of time to complete an investigation.

8 (7) The average length of time to complete an investigation that  
9 was not completed by the end of the extended time period  
10 authorized in paragraph (3), (4), or (5) of subdivision (a).

11 (i) For purposes of this section, “complaint” means any oral or  
12 written notice to the state department, *other than a report from the*  
13 *facility*, of an alleged violation of applicable requirements of state  
14 or federal law or any alleged facts that might constitute such a  
15 violation.

16 (j) Nothing in this section shall be interpreted to diminish the  
17 state department’s authority and obligation to investigate any  
18 alleged violation of applicable requirements of state or federal law,  
19 or any alleged facts that might constitute a violation of applicable  
20 requirements of state or federal law, and to enforce applicable  
21 requirements of law.